

**A GUIDE TO
THE SQUAXIN ISLAND TRIBE'S YOUTH COURT**



**Squaxin Island Tribe of the Squaxin Island Reservation
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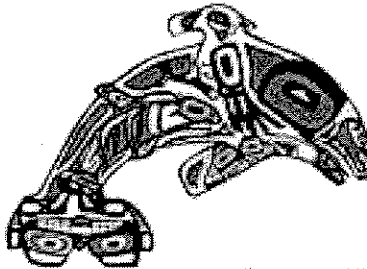
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Chapter 1

An Introduction to Youth in Need of Care within the Squaxin Island Tribal Community



Welcome to those programs and services available to assist you and your child when care is needed. The Tribe believes that its children are one of its greatest assets. In order to ensure their safety, the Tribe has developed a comprehensive program to help build and sustain safe and healthy families. The needs of an individual, of a family and of the community are best met when all of the tribal, state and local programs and services are coordinated and working to provide the best possible service and response. The social services, drug and alcohol, mental health, education, police, Indian Child Welfare programs coordinated through the Tribal Youth Court are all available to meet the needs of youth in need of care.

The purpose of this guide is to introduce you to each of those programs, the people who will interact with you, how they each interact with each other, what you can expect from those programs, and otherwise explain where you are in the system and what might occur next.

The Tribe has enacted laws intended to protect Indian children whenever the child might be in need of care. Generally, children are in need of care if there is no one providing adequate care, if there is sexual, physical or emotional abuse, if the child misses too much school, if the child is a runaway, if the child is committing crimes or if there is too much conflict between the parent and child.

The Indian Child Welfare Program is the first responder to complaints or rumors that a child is in need of care. The ICW staff will work closely with the police to investigate complaints or to confirm rumors. The ICW staff will work closely with the police, social service and mental health and education staffs to choose the best possible response for the child, the family and the community. This guide describes the actors, the tools, and the paths that each typically follow, and that path that a youth in need of care will likely travel. The ICW staff's primary interest is the best interests of the child.

If someone alleges that your child has been abused or neglected, ICW will in coordination with the police investigate any allegations and make an initial decision whether your child is at risk

or in need of care and needs to be removed from your home, or if there should be conditions on you for your child to stay in your home. ICW will also assist you and your family in gaining whatever services you might need to overcome whatever is placing your child in danger.



Throughout this Guide, references will be made to the Squaxin Island Youth Code. The numbers refer to the chapter, section and subsection of the Code, for example SITC § 10.04.070. The Code is available on the Internet at www.squaxinland.org/ or from the ICW.

Chapter 2

The Children the Tribe Protects

The Squaxin Island Tribe asserts jurisdiction over its members wherever they might live and over all those that are eligible for enrollment if they live on reservation. If a child is 18 years old or younger and falls into one of those two categories, then the child is an Indian youth. As an Indian youth, the youth is entitled to all the protections and rights of the Tribe's Youth Code.

A. Exclusive Jurisdiction. The Court shall have exclusive original jurisdiction over any proceeding concerning a youth alleged to be in need of care, termination of parental rights, adoption, or guardianship which involves:

1. Any Indian youth who resides or is domiciled on the Squaxin Island Reservation;

2. Any youth who is a member or is eligible for membership in the Squaxin Island Tribe regardless of the youth's residence or domicile; or

3. Any Indian youth who has been placed in temporary care on the reservation or in any care facility licensed by the Tribe for placement of Indian youth.

SITC 10.04.020

"Indian youth" means a youth who is under the age of eighteen (18) years and who is either enrolled in or a member of an Indian tribe or both eligible for enrollment or membership in an Indian tribe and a biological child of an enrolled Indian.

SITC 10.04.040.

Thus, the Tribe can and will intervene if an Indian youth – a child under the age of 18 that is enrolled or eligible for enrollment and the biological child of an enrolled Indian regardless of where the child lives – is in need of care.

The Tribe will not intervene if the child is not enrolled as a Squaxin Island Tribal member (note that it could) and will not intervene if the child is not eligible for enrollment as a Squaxin member.

Chapter 3

Our Mission: The Tribal rules that guide

The Squaxin Island Youth Code provides the rules that guide the efforts of the Tribe, including its ICW Program and its coordination and collaboration with other tribal social services program.

The Youth Code was adopted, and ICW Programs purpose is,

- To provide for the care and protection of the young Indian people of the Squaxin Island Tribal Community.
- To ensure that the young Indian people of the Squaxin Island Tribal Community receive assistance and guidance in their own homes, whenever possible, separating the youth from his or her parent only when necessary for his or her welfare.
- To protect and preserve the identity and pride of the young Indian people of the Squaxin Island Tribal Community as Native Americans.
- To provide a simple procedure for addressing and resolving conflicts involving Indian youth that is reflective of tribal traditions as well as the prevailing community standards, and which affords all affected persons a fair and impartial hearing, consistent with individual rights.
- To ensure that off-reservation courts will be willing and able to return young people of the Tribe to the tribal community for care and guidance.
- To insure that the sovereignty of the Squaxin Island Indian Tribe is recognized in all matters affecting the welfare of the young people of the Squaxin Island Tribal Community.

SITC § 10.04.010.

The ICW Program can become involved in your life and in your child's life if your child is a youth in need of care. That covers a great deal, but most often it simply means that your child is at risk, has been abused sexually, physically or emotionally, or has been neglected or abandoned.

Chapter 4

YOUTH IN NEED OF CARE WHAT IS IT AND WHAT HAPPENS?



A Youth in Need of Care means any youth who:

- Has no parent, guardian or custodian willing, available and able to provide adequate care for him or her.
- Has been sexually, physically or emotionally abused.
- Has not been provided with adequate food, clothing, shelter, medical or mental health care, education, and/or supervision by his or her parent, guardian, or custodian, and the deprivation is not due primarily to the lack of financial means of the parent, guardian or custodian. "Education" includes the parents' responsibility to send children to school regularly.
- Has been physically or emotionally neglected.
- Has been abandoned.
- Has repeatedly run away from home.
- Has been committing delinquent acts as a result of parental or custodial neglect, pressure, guidance or approval.
- Is in serious conflict with his or her parent, guardian or other custodian to the point where assistance outside the immediate family is needed or requested by the parent, guardian, or other custodian.
- Has been placed for care or adoption in violation of the Indian Child Welfare Act of

1978.

SITC §10.08.010(A). Each is discussed in turn.

- Has no parent, guardian or custodian willing, available and able to provide adequate care for him or her.

Very few ICW cases in the last 5 years have been triggered by this section. However, an example is ...

The Tribe has no companion criminal code. Thus, if adequate care is a question, then the remedies are limited to the Youth Code.

- Has been sexually, physically or emotionally abused.

The majority of ICW cases begin with an allegation of physical or sexual abuse. Physical abuse means ... Examples include, Sexual abuse means Examples include ...

- Has not been provided with adequate food, clothing, shelter, medical or mental health care, education, and/or supervision by his or her parent, guardian, or custodian, and the deprivation is not due primarily to the lack of financial means of the parent, guardian or custodian. "Education" includes the parents' responsibility to send children to school regularly.

We found no active ICW case that falls within this category. However, the most likely example is the failure to ensure that one's child is attending school. See also the Truancy Code, where [illustrate and explain]

- Has been physically or emotionally neglected.
- Has been abandoned.
- Has repeatedly run away from home.
-
- Has been committing delinquent acts as a result of parental or custodial neglect, pressure, guidance or approval.
- Is in serious conflict with his or her parent, guardian or other custodian to the point where assistance outside the immediate family is needed or requested by the parent, guardian, or other custodian.

Occasionally, ICW is asked by parent or an aunt or uncle to aid the parent in resolving conflict with the child.

- Has been placed for care or adoption in violation of the Indian Child Welfare Act of 1978.

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Chapter 5

YOUTH IN NEED OF CARE HOW IT ALL BEGINS

The trigger for a Youth In Need of Care is someone, somewhere, expressing a concern about one of the tribal youth. Whatever the message, if someone knows or someone suspects that a youth is in need of care, that one of the 9 different sort of things that place a child at risk is happening, they need to tell the story to the police or an ICW case worker or their counselor or social service staff or doctor.

Under federal, state and tribal laws some staff, primarily counselors, social service staff, and medical staff are required to report whenever they suspect or have evidence that a child has been abused or neglected.

When you have something to report that might trigger a Youth In Need of Care action, the person that you report it to may encourage you to contact the police or ICW to file a complaint. ICW will work closely with the police. You will be asked to file and sign a complaint based on your personal knowledge. The complaint will trigger further investigation and evaluation by ICW and the police, and eventually the Youth Court, in determining whether the child is at risk or not.

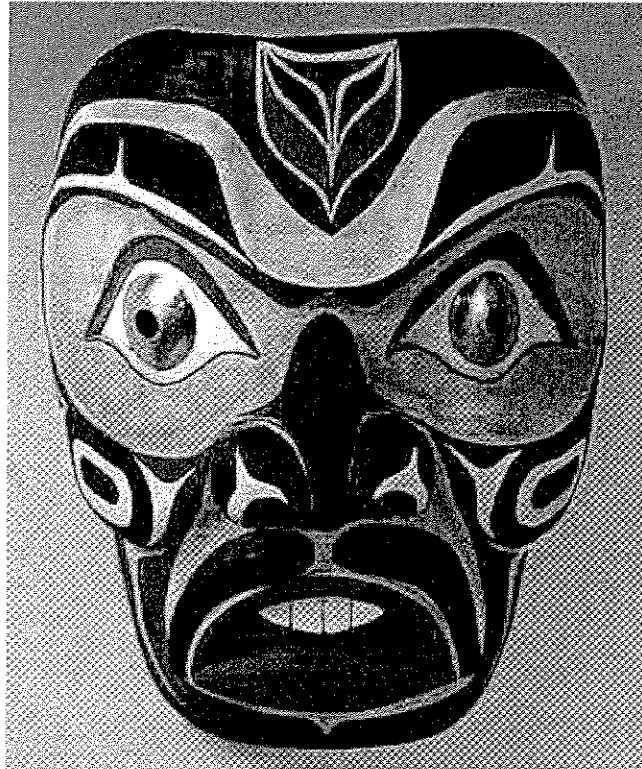
Sometimes when you tell something to someone else they will contact the police or ICW. If they have personal knowledge of the injury or abuse or neglect, they will be asked to file and sign a complaint. If they do not have personal knowledge, the police will seek out whomever does have personal knowledge.

If, however, there is no one willing to sign a complaint that has personal knowledge of the injury or abuse or neglect, the police and ICW can not bring a Youth In Need of Care action.

Once the complaint is filed, an investigation is conducted by the police and an ICW case worker. They, in turn, will decide whether to file a Youth In Need of Care petition. A petition will be filed if the police and/or ICW, together with the presenting officer, believe that they have sufficient evidence to demonstrate to the Court by a preponderance of the evidence that the youth is a Youth In Need of Care. The team will need to demonstrate that one or more of

Chapter 6

Who Reported Me and Why?



All citizens have a responsibility to protect children and report child abuse. If a person has reasonable cause to believe that you are abusing or neglecting your child, that person should make a report immediately. The person making the report does not have to have proof that abuse has occurred before making a report in good faith.

Reports are made to the Indian Child Welfare Program, Washington Department of Social and Health Services, Child Protective Services, Squaxin Island Police Department, Mason County Sheriff, Shelton Police Department and other tribal, city, county and state agencies.

Some people are required by law to report. They are called a mandatory reporter. For a mandatory reporter, failure to report suspected abuse is a crime carrying a maximum penalty of a \$1,000 fine. [insert citation]

All Tribal staff are mandatory reporters, as are schools, hospitals, doctors, nurses, mental health, and drug and alcohol counselors.

The reporter's identity is kept confidential unless it is necessary to reveal it in the Tribal

Court. See Chapter ____.

The person making the report is responsible for providing:

- Identifying information about your child, such as name, age, date of birth, and address.
- A detailed description of the neglect or abuse, such as what was seen or heard, who was present, dates, times, locations, and names of other witnesses if possible.

After a person makes a report regarding your child, it is the investigator's responsibility to follow up and evaluate whether there is reasonable cause to believe that your child is being abused or neglected. The police and the ICW Program will coordinate an investigation and evaluation.

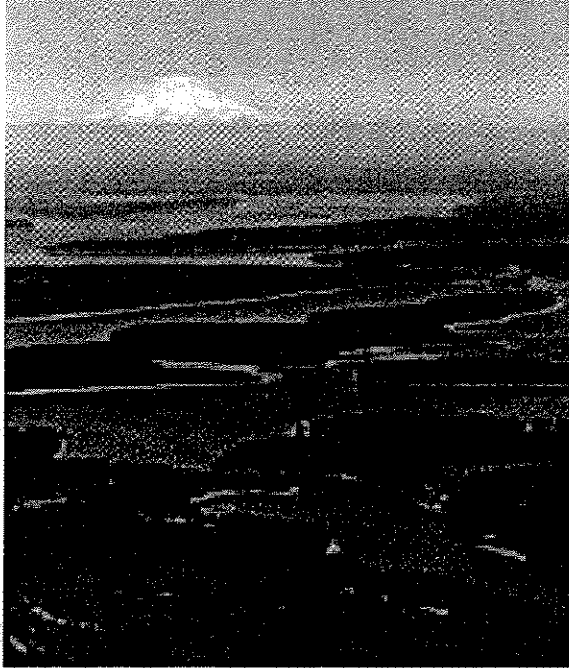
For legal authorities to act on a Complaint there must be one of the following:

- A visible injury, a statement from the child that abuse has occurred, or both;
- An injury that doesn't fit with the explanation for it;
- Abuse that was seen or heard that would injure a child but not show visibly (e.g. violently shaking a baby);
- Reasonable suspicions of neglect or abuse.

[Compare this with the 9 elements in the statute]

Chapter 7

Who Will Contact Me and What Will Happen?



When a complaint is first received, an investigation and evaluation will begin.

Your first contact with under the Youth In Need of Care program will most likely be through the investigator. He or she may contact you either in person or over the phone. The investigator will discuss the concerns that have been reported and ask you questions that will help with the investigation. There may or may not be truth to the complaint, but since children are so vulnerable and so much at risk, investigations must take place, and take priority over other concerns. The initial focus will be on the child's well-being. You can choose to help or not help the investigation. If you help, you help determine the truth. If you chose not to help, it will only delay and make it more difficult to determine the truth.

If there is reason to believe that the youth is in immediate and serious danger then the officer or the ICW Case Worker may take the youth into custody. SITC § 10.08.010 (D)(2).

Depending on the circumstances, the child could be returned to the parent or guardian within a day or so.

If the child is not going to be released to the parent or guardian within 2 days, the police and

ICW will coordinate and determine where to place the child in temporary shelter care. SITC § 10.08.010 (D)(3).

Following this first emergency action, the next step could be one or more of the following:

- The investigator may decide that enough information has been collected to close the investigation.
- The investigator may determine that additional information is needed to complete the investigation.
- The investigator may determine that there problems exist but are not enough of a problem to place the youth at risk. The investigator may make recommendations to help with those problems.
- The investigator may determine that a child is a youth in need of care.
- The investigator may offer your family services in order to avoid the need to remove your child from your home. If you do not choose to participate in these services, this can be considered neglect and your child may be removed from your home;
- The investigator may remove your child if the investigator believes your child is in danger in his/her surroundings and place the child in shelter care.



Chapter 8

YOUTH IN NEED OF CARE THE COMPLAINT

The trigger for formal action is the complaint. A complaint is simply a plain, concise statement of the what happened, when, where, by whom, and to whom. The complaint needs to be based on personal knowledge. If you know what happened or saw what happened then you have personal knowledge. If someone told you what happened or you only heard about, you do not have personal knowledge. Just because you weren't there doesn't mean it didn't happen, it just means that the police or ICW have to contact the person who was there, who heard or saw something take place.

SITC §10.08.010 (C).

The complaint gets filed with the police or ICW. If it is filed with the police, the police will inform ICW. If it is filed with ICW, ICW will immediately forward the complaint to the police.

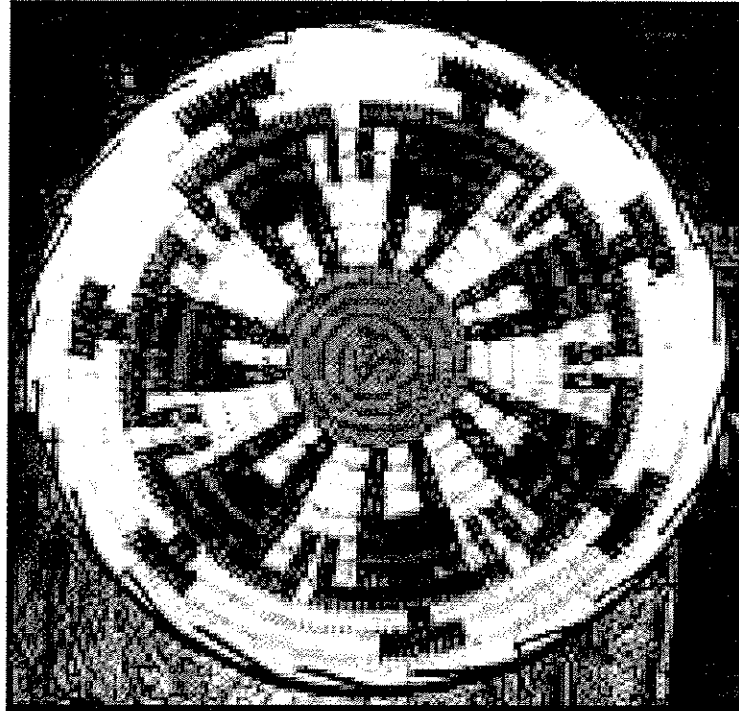
SITC §10.08.010 (B).

If you sign a complaint, your name will be kept confidential. The only way the name of who signed the complaint is to be disclosed is if the Youth Court judge orders it. The judge, the police, the Tribe's presenting officer and the ICW Case Worker are the only people who will know and they too must keep it confidential.

If a complaint is filed against you or about your child, you will not be told, and will not be allowed to know that name of whoever complained. The purpose of that rule is to encourage reports of abuse or neglect without the risk of retaliation. The potential for false complaints exists, but that truth is likely to come out in the initial investigation and evaluation.

Chapter 9

ICW Program Staff: Who Are They and Where Are They Located



The ICW Program is part of the Health and Human Services Department under the supervision of the Family Services Manager.

ICW is located currently in the old CDC (Community Development Center) building across the parking lot from the Sally Selvidge Health Center. The building is directly behind the Elders Housing Circle, and in front of the other elder housing apartments.

The physical address is 92 SE Klah-Che-Min Drive, Shelton, WA 98584.

The mailing address is 90 SE Klah-Che-Min Drive, Shelton, WA 98584.

The main telephone number is 360.427.9006.

The ICW Program is made up of a team of people who are here to assist your family. All of the staff can be reached by calling 360.427.9006.

Generally, ICW responsibilities include:

- Making investigations as provided in this code or as directed by the Court;
- Making reports as provided in this code or as directed by the Court;

- Placing a youth in shelter care as provided in this code; and
- Performing such duties in connection with care, custody, or transportation of youth as the Court requires. SITC § 10.04.070 (E)

The following list is a description of each team member and his or her duties:

- ICW Intake and Referral Caseworker - this person screens all incoming reports of abuse or neglect and refers cases that need further investigation to the ICW Investigator.
- ICW Investigator - this person investigates reports of abuse or neglect and reports the findings to the team. The team determines whether to provide assistance to your family, and/or if your child needs to be removed from the home. SITC § 10.04.070 (E)(1).
- ICW Prevention Caseworker - this person may provide services to help your family build skills to keep your child from being removed from the home.
- ICW Caseworker - your family may be assigned to a caseworker. The caseworker monitors a service plan and makes referrals for both you and your child. If your child is removed from your care, the caseworker arranges visitation for your family and supports your family in working towards reunification.
- Foster Care Coordinator - this person certifies foster homes, arranges for the placement of your child and provides support services for foster parents while they are caring for your child. SITC § 10.04.070 (E)(3).
- ICW Supervisor - this person is responsible for supervising the staff listed above, assuring that your family is receiving quality services, improving existing services and developing the ICW Program

[Consider placing names and phone numbers in an appendix so that they can be readily updated]

The Family Services Manager

Pamela Hammond, MPA (360) 432-3914

The Family Services Manager is responsible for supervising the staff listed below, assuring that your family is receiving quality services, improving existing services and developing the ICW Program

ICW Caseworkers (as of January 31, 2005)

Yolanda Harvey, MSW (360) 432-3886

Teresa Remick, BA (360) 432-3926

DRAFT

Chapter 10

Who's Who: Social Services: Who Are They and Where Are They Located



Northwest Indian Treatment Center Outpatient Services

Substance Abuse Assessments.

Sometimes substance abuse interferes with parenting. When this occurs the ICW Program might request a substance use assessment to determine if there is a problem and its severity. If the court orders an assessment the order often requires that the individual follow the recommendations made resulting from the assessment.

A substance use assessment will include interviews with the individual referred, and sometimes a review of other documents such as police reports or a record of the driving history or legal history; sometimes reports from other providers may be requested as a part of the assessment process, providers such as mental health counselors or past substance abuse counselors or health care providers. A urine test or tests will be part of the assessment.

The possible outcomes of an assessment are:

- A determination that no substance use problem
- A need for education about the effects of substances, or
- Treatment

If treatment is recommended, the level of care will depend on the acuity of the problem. The criteria used to determine the level of care is called ASAM criteria. These are national standards that all chemical dependency counselors use. The criteria include how much substance is used, how often and how long, and the accumulated damage in different areas of health, relationships, work, and whether there are other kinds of problems too. Other criteria are how much resistance to change is present, the support for change in the environment and the results of past efforts.

Level of Care

- Outpatient Care is the lowest level of care. The individual in this level of care is asked to attend one or more times each week.
- Intensive Outpatient Care is a level of care in which the individual may be asked to attend treatment four or five times each week.
- Residential Care means staying in a 24 hour per day facility for thirty days or more depending on the facility. The residential programs used by NWITC are usually in the State of Washington and chosen to best meet the needs of the person referred. For youth the placement referral may be to a program out of state as there are some very good ones that can be accessed through I.H.S. in Oregon and other places. Residential care is the level of care recommended when the individual does not appear to be able to stabilize substance use patterns while in the community.

Sometimes when an individual has had previous treatment that has not resulted in stabilization, a referral to a long term treatment facility may be made. The length of stay in a facility like this may be as long as one year. There are also long term specialty programs such as those for pregnant and parenting women.

If the person arrives at the outpatient program in need of medical detox a referral is made to Tacoma Detox or, if the person has insurance coverage, to a private hospital that offers that service.

Changes in the level of care or frequency of care depend on the needs and progress of the individual.

Service Elements

Outpatient treatment may include:

- Individual counseling
- Group counseling
- Family counseling
- Couples counseling
- Referrals to other providers
- Urine Specimens

The counselor may refer the individual to other services if she/he thinks that's appropriate. These referrals can become part of the recommendations made to the ICW program or to the court. The most frequent referrals are to mental health counselors, physicians, psychologists, psychiatrists, or counselors with specialties in victim treatment or who can provide anger management or treatment of domestic violence. Other referrals may be made for supportive services such as to TANF, vocational rehab, or recreational and cultural activities.

When a referral is made the counselor may provide case management. This means the counselor will help coordinate the care provided by different professionals so that they are oriented toward the same goals.

Success in substance abuse treatment depends on abstinence, attendance, active participation, behaviors and choices that make abstinence have a long term probability including honesty with the counselor. Follow through with assignments and referrals is also important.

Information provided to the outpatient program is confidential. Information is not released to anyone else unless the person in treatment signs a consent to release form. The consent form identifies what is to be released and to whom. There are several exceptions to this rule: if a crime occurs on the treatment program premises or in relation to an employee, it is reported to law enforcement; if there is reason to suspect child abuse or neglect or abuse and neglect of a vulnerable adult – an elder, or someone without the capacity to defend or protect themselves – a report to law enforcement occurs. The other situations in which information may be released without the individual's permission is in a medical emergency or if a threat of harm is made against someone else sufficient that the counselor feels to need to warn that person.

Often when the ICW program or the court is involved in making a referral to a substance treatment program, the individual will be asked to sign a consent to release information so that their participation and progress can be reported. In fact, the court or the ICW program may require that a consent to release information be signed as a condition of compliance with their expectations. For more detailed information about this ask program staff for the policies or ask for a outpatient client handbook.

Chapter 11

Who's Who: Presenting Officer: Who Are They and Where Are They Located

The Presenting Officer is the attorney representing the Tribe in the Youth Court for all Youth Code matters, including Youth in Need of Care, Guardianship, Adoption, and Termination of Parental Rights. The police, the ICW Program, social services staff and other tribal representatives are presented to the Court through the Presenting Officer.

Generally, Presenting Officer is the same individual who serves as prosecutor for the Tribal Court.

See SITC § 10.04.080.

Chapter 12

Who's Who: Guardian Ad Litem: Who Are They and Where Are They Located

A Guardian Ad Litem, or GAL, is an individual who's sole responsibility is to represent the best interests of the youth.

A GAL is appointed by the Youth Court when (a) the Court finds that the youth does not have a parent or guardian willing and able to exercise sound judgement regarding the youth's best interests or (b) the ICW Program requests it. SITC § 10.04.090 (A).

To be appointed a GAL, the GAL must be familiar with the rights of youth and the Youth Code. SITC § 10.04.090 (B).

The ICW Program maintains a list of GALs acceptable to it, and qualified to act as GALs. Please see Appendix ____.

The GAL has several responsibilities under the Youth Code. Most importantly is his or her recommendation to the Court regarding disposition. SITC § 10.04.090 (C)(2). See also [list other Code references re termination, adoption, etc.]

Chapter 13

Working with the ICW Program

Working with the ICW Program and the Tribal Court can be a positive experience for your family. The number one goal of both is to keep children safe and healthy with their family together. In order to achieve this goal, the ICW Program will offer services to your family. The ICW Program and you will work together to develop a service plan to meet your family's individual needs. This process can occur in the following ways:

- **Voluntary Agreements** - These are agreements made between the ICW Program and your family so that your child does not have to be removed from your home. In this agreement you will agree to participate in the needed services for your family. These agreements are not processed through Tribal Youth Court. However, if you do not follow through with the agreement the ICW Program may take further action through the Tribal Youth Court and your child may be removed from your home.
- **Informal Adjustment Agreements** - These agreements are processed through the Tribal Youth Court. Your child may or may not remain in your home. In this agreement you give up your right to a trial by admitting in Tribal Youth Court that your family needs help and voluntarily agreeing to participate in the needed services for your family. If you complete the services successfully your child will not be removed or, if already removed, will be returned to your care. The case will then be dismissed. Your child will not be made a ward of the Tribal Youth Court. If you do not complete the services, then the Tribal Youth Court will make your child a ward of the Tribal Youth Court and your child will remain in the custody of the ICW Program.
- **Court Ordered Service Plans** - You may choose to deny everything and ask for a trial. If the Tribal Youth Court decides against you, your child will be made a ward of the Tribal Youth Court. In these cases the Tribal Youth Court orders a service plan. The Tribal Youth Court will order that you successfully participate in certain services to prevent removal of your child or to make your child's return home possible.

You and the ICW Program will prepare some worksheets spelling out what you must do and leaving you room to keep track of your progress (See Chapter 14). You will use these sheets to show the ICW Program & the judge your progress on your plan.

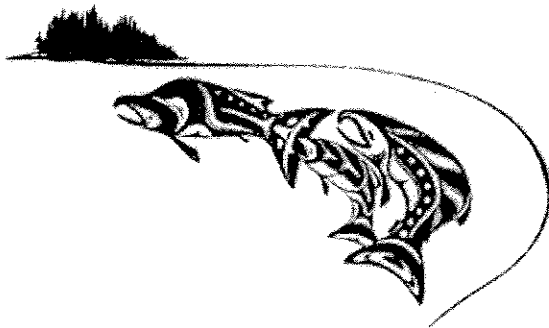
Chapter 14

Working with Social Service Providers

[to be prepared]

Chapter 15

Family Unity Meetings



The ICW Program recommends that families participate in family unity or family decision making meetings. After all, family members are very important resources and most cases involve the entire family not just the individual involved with the ICW Program. Family unity meetings are designed to help your family succeed by identifying your family's strengths and needs in order to develop a service plan to achieve your goals for your family. The family unity process also helps build a support system for your family.

See also the next chapter regarding family mediation hearings.

In all cases, the process will be as follows:

- Following a request from yourself or the ICW Program, the family case manager will contact you and ask if your family would like to participate in a family unity meeting.
- You will choose who you would like to attend and the Judge may order others to participate. You may choose relatives, extended family members, friends and/or supporters. The ICW Program will also invite participants who may be of help, like a teacher or counselor.
- The family case manager and your family will meet to determine what requirements must be met to keep your family together.
- If other providers are presently working with you they will also be invited to the

meeting (e.g. mental health counselors, alcohol and drug counselors, AFS, SCF, or ICW caseworkers). If it is determined that a provider should be working with you, you will be referred to that provider and they will take part in any follow-up family unity meetings.

- All options will be discussed with your family during these meetings. You, your family, and all participants will work together so that you can achieve your family goals. The family case manager will become your advocate in helping you achieve the goals set forth. S/he will contact all providers to ensure that your services are being provided in a timely manner.
- The number of family unity meetings required is determined on an individual basis. The meetings will be held as often as necessary to achieve your family goals. You or your providers may request a family unity meeting at any time.

Chapter 16

Mediation Panel Hearings

The Youth Code offers an alternative to the Court house – a mediation hearing before the Fact Finding Hearing takes place. The mediation hearings are informal and separate from court proceedings. Basically, whatever is said or done, admitted or agreed at the mediation hearing stays at the mediation hearing. The notion is that all participants should be free to talk, to discuss ideas and concerns, and develop solutions without fear that what might be said will be used against them in the court. What occurs at mediation stays at the mediation table unless everyone agrees otherwise. SITC § 10.08.050 (E).

If an agreement is worked out at the mediation table, that agreement will be presented to the Court for review and final approval and enforcement. The youth, the youth's parent, guardian or custodian, the presenting officer, the ICW Case Worker and any other participant should sign the agreement. SITC § 10.08.050 (E)(4).

If it is not possible to work out an agreement, for whatever reason, the fact finding hearing will take place. See Chapter ____ SITC § 10/08.050 (E)(5).

The tremendous value in a mediation panel is that all those who can contribute to the health of the youth and the family can participate and an agreement among the ICW, social service, treatment, education and police staffs without going to Court.

Chapter 17

Confidentiality

Confidentiality is critical to protect the privacy of children and family. Tribal and federal law require strict adherence to confidentiality.

The ICW Program coordinates and collaborates with the Court, with the Police Department, with the Northwest Indian Treatment Center, the Outpatient Treatment Program, with Health and Human Services, with mental health, drug and alcohol counselors and other tribal service providers and various state agencies. Who ICW coordinates with on any given case depends solely on that case. However, all those who participate must share information necessary for each to complete its responsibilities and to provide meaningful and effective services to you and your family. To do that, you will be asked to consent. The choice will be yours. If you chose not to consent, then certain information cannot and will not be shared. If you chose not to consent, ICW may ask the Court to require certain disclosures so that ICW can obtain the information necessary to meet its duties. If you do consent, you will consent to certain information be given only to certain programs. The information that is shared will be not be shared with anyone other than those that you have agreed can receive the information.

Guidelines for the Release of Confidential Information

Information may be shared between and among providers, for example, the Outpatient Program and ICW, only if shared in compliance with a special federal law (42 C.F.R. Part 2). What follows are several guiding principles related to the law to explain its basic requirements:

- The patient controls to whom information is released. For instance, the patient may decide to release information to one external provider but not another.
- The patient defines what information is released. For instance, the patient may permit informing a probation officer that he/she is present in treatment and in substantial compliance, but choose not to release any other information.
- The patient must be informed that the release can be revoked at any time by verbal or written statement. It is required that a statement to this effect be included on every release form that includes information obtained from an addiction treatment program.
- Even when an appropriate release is obtained the information released must be only that which is necessary to achieve the purpose or need for the information, generally the least possible to achieve the goal. For instance, a progress report may include that the patient is in compliance and making substantial progress, but should not include information about the patient's particular issues unless that information is needed by, for example, another therapist.
- The information release form signed must have all the components to conform to the law. The components are specific. When obtaining a release of information received from an addiction program it is recommended that the form used is one designed by an addiction program specialist.

- There is another key concept attached to 42 C.F.R. Part 2. By receiving the information from an addiction treatment program the law becomes incumbent on the receiving person. In other words the receiving person or program must refrain from releasing ANY information received, including the participation of the individual in a treatment program, to anyone else except as defined by this law. Information cannot be re-released without the necessary consent.

This means that the federal law governing addiction treatment information follows the information and is not only specific to the addiction treatment program personnel. Here is a specific example: the information released to an ICWA provider **can** be shared with another ICWA provider within the same program, or the supervisor of that program, but **cannot** be communicated to a nurse, court or SPIPA personnel. In order for the ICWA provider to release the information to the nurse, etc. the patient must sign another appropriate release.

For practical purposes within the programs and departments of the Squaxin Island Tribe this means that information released to one program may not be communicated to another without a new release of the information signed by the patient/client. Further, if one individual has two roles within the Tribe or works in two different departments, the information obtained by appropriate release in one role cannot be released by that person in the other role. For example, if information is released to someone in the Human Resources Department as part of a back to work agreement, and the HR personnel receiving that information also has a role on CPT, the information obtained in the role within HR cannot be communicated to the CPT group.

There are exceptions to this law but they are carefully identified and not within the scope of this guideline. In general, it might help to think of addiction treatment information as having a firewall surrounding it that travels with it. At each point, the law applies in full.

Careful compliance with 42 C.F.R. is important. Violations have legal sanctions and inappropriate release of information has the potential to make the Tribe liable for damages.

To ensure coordination and collaboration amongst the several programs that may be involved in your case, the Tribe has developed a series of consent forms that authorize release from one or more programs to one or more programs, so that the necessary information is released, but only that information that is necessary.

The Disclosure Form that you will be asked to sign looks very much like the one attached as Appendix A.

Confidentiality also exists in the Tribal Youth Court. All hearings and conferences are closed to the public. The only people allowed in a hearing or conference are the Judge, the presenting officer, ICWA worker, the tribal law enforcement officers, and you, your family, and your attorney or spokesperson. You may agree to have others in but unless you agree others cannot attend. Any one asked to testify or speak will be allowed but only for the limited purpose of giving testimony or presenting evidence and only for so long as it takes to do so.

All conference, hearing, and law enforcement records and files are confidential and are not

open to any but the Judge; the Court Clerk; the tribal attorney; the presenting officer; the youth and his or her legal representative; the parent, guardian, or custodian; and the ICW worker; the Judge.

Chapter 18

Available Services



There are many services that may be available to your family through the different Tribal Departments. All of the departments can be reached by calling 360.426.9781 and requesting the department or program that you wish to contact. Below is a list of the services under the different departments that you may want to contact:

TU HA BUTS LEARNING CENTER

- Headstart
- Before and After School Program
- Homework Club
- Youth Recreation
- Education Liaison
- Youth Education
- GED
- Adult Education
- Short-term Training

COMMUNITY DEVELOPMENT

- General Assistance
- Transitional Housing
- Emergency Assistance
- Domestic Violence

Adult & Family Services (AFS)
Indian Child Welfare Program

FAMILY SERVICES

Indian Child Welfare

Food Bank

Child Care Coordinator

Elder Nutrition

Independent Living

Skills for Foster Youth

Supervised Visitation

Counselor Referral

HEALTH AND HUMAN SERVICES

Medical Services

Dental Services

Optical Services

Mental Health Services

Pharmacy

Wellness Program

Vocational Rehabilitation Services

Indian Health Services

Diabetes Prevention

Diabetes Coordinator

Women's Health Services

DSHS Community Outreach Worker

HOUSING

Medical Adaptation Grant

Down Payment Grant

Elders Housing

Home Repair Grant

HUMAN RESOURCES

Employee Benefits

Employee Assistance Program

NORTHWEST INDIAN TREATMENT CENTER

Drug and Alcohol Evaluations

Chemical Dependency Professionals

One-on-One CD Counseling

Residential In-Patient Program

Adolescent Chemical Dependency Treatment

Out-Patient Treatment Program

SPIPA

Squaxin TANF
Mental Health Counselors
WIC Assistance
Emergency DV Services
Emergency Food Vouchers

SQUAXIN ISLAND LEGAL DEPARTMENT

Criminal Defense – Public Defender
Mason County Volunteer Legal Services

Chapter 19

Difference Between Physical
and Legal Custody



If the Tribal Court is involved, the Judge will order who is to have legal custody and who is to have physical custody. For example, the Judge might order "Temporary custody granted to

the ICW Program, with placement of the child in the mother's "physical custody and care."

Legal custody means that the person or agency granted legal custody of your child has the right to make all decisions about your child. For example, where the child lives and goes to school, whether the child gets medical treatment and what kind of treatment, who gets to visit the child and under what conditions. This person or agency is referred to as the legal custodian. The legal custodian also has major responsibility for the support of your child, although the parents can be ordered to pay child support.

Physical custody means that the child is physically placed in your or someone else's home although legal custody may have been granted to someone else. The person with physical custody, you, a relative, a foster parent, cannot make any major decisions about your child without the consent of the legal custodian.

When your child is first taken away from you, the ICW Program is granted emergency legal custody. Nothing has been proven against your parenting yet. You have a right to have a preliminary hearing within 10 days (see Chapter 10) and an adjudicatory hearing (see Chapter 11) within 45 days. At both of those hearings, the ICW Program must prove that there is a good reason for the Tribe to be involved with your family. Until this time, you have a right not to cooperate with the investigation. However, the ICW Program will probably not place your child in your physical custody during the investigation if you are not cooperating. This is an important decision you must make.

When the ICW Program has legal custody of your child, but your child is living with you in your physical custody, your child is said to be under the protective supervision of the ICW Program. This means that the ICW caseworker has full rights to come into your house at any time to check up on how you and the child are doing.

If the ICW Program is granted legal custody of your child after your adjudicatory hearing, the ICW caseworker can ask you to do any services that relate to the reasons your child was placed into the ICW Program's legal custody. For example, you may be required to be doing drug treatment or mental health counseling. You may have to keep the house cleaner than you have in the past. You may be required to make sure your child is in school. You may be prohibited from spanking your child.

Once your family is safely reunited and services and supervision are completed, legal custody will be returned to you.

Chapter 20

What is Abuse, Neglect and Abandonment?



The Tribe, through either the police or the ICW Program can take emergency custody of your child if there is reason to believe that your child is being abused, neglected or abandoned and that your child is in immediate danger. What is abuse, neglect or abandonment? In the next few pages a description of the definitions will be explained.

20.1 "Abuse" defined

The Tribe's Youth in Need of Care Code defines a Youth In Need of Care as, among other matters, "any youth who ...(2) has been sexually, physically, or emotionally abused". However, neither the Youth Code nor the Criminal Code define those terms. In the absence of a change in the Tribal Code, the ICW Case Workers work from a common definition in other jurisdictions which define abuse as:

"The infliction of physical, emotional or mental injury on a child, or sexual abuse or sexual exploitation of a child, including failing to maintain reasonable care and treatment or exploiting

or overworking a child to such an extent that his health, moods or emotional well-being is endangered."

[insert citation]

Examples of physical injury may include bruises, cuts, lacerations etc.

Examples of emotional or mental injury may include exposing the child to domestic violence incidents between you and your spouse, or you and your significant other.

Examples of the failure to provide reasonable care and treatment for your child may include failure to provide a safe environment for your child free from persons who may harm the child. This may include failure to leave an unsafe situation where your child is exposed to criminal activity or harm.

Examples of the failure to provide reasonable care and treatment for your child may also include incidents when you disciplined too harshly or you have exploited your child, or overworked your child to such an extent that your child's health and emotional well-being are in danger.

20.2 Neglect defined.

The Tribe's Youth in Need of Care Code defines a Youth In Need of Care as, among other matters, "any youth who ... (4) has been physically or emotionally neglected". However, neither the Youth Code nor the Criminal Code define those terms. In the absence of a change in the Tribal Code, the ICW Case Workers work from a common definition in other jurisdictions which define neglect as:

"The failure of the parent, guardian or custodian to provide adequate food, clothing, shelter, medical care, education or supervision for the child's health and well-being, including the failure of such parent or other custodian to take advantage of reasonably available public assistance and service programs designed to furnish such needs where the parent or custodian cannot provide such needs on their own."

[insert citation]

Examples of neglect may include the failure to adequate food, clothing, shelter, medical care, education, or supervision for your child.

Neglect may include the failure to provide the basic necessities for your child such as adequate food to eat, adequate clothes to wear, and a clean, safe place to live.

Neglect may also include the failure to provide your child with needed medical care, such as immunizations or the failure to see that your child attends school on a regular basis.

Neglect may also include the failure to adequately monitor your child's activities and assuring that your child is in a safe environment at all times.

Neglect may also include the failure to take advantage of services offered to you and your children to assist you in providing for your child's needs. For example, the failure to take advantage of community programs that provide you with housing assistance, food assistance, financial assistance, and medical services or the failure to take advantage of services offered by the ICW Program to prevent removal of your child.

20.3 Abandonment defined.

The Tribe's Youth in Need of Care Code defines a Youth In Need of Care as, among other matters, "any youth who ... (5) has been abandoned". However, neither the Youth Code nor the Criminal Code define those terms. In the absence of a change in the Tribal Code, the ICW Case Workers work from a common definition in other jurisdictions which define abandonment as:

"The failure of the parent, guardian or custodian to provide reasonable support and to maintain periodic contact with a child. Failure to maintain a normal parental relationship with a child without just cause for a period of six months shall constitute prima facie evidence of abandonment. Custody with extended family members or voluntary consent, to placement does not constitute abandonment."

Examples of abandonment include leaving your child with others and not providing any type of assistance to that person so that your child's needs are met, and you are not having periodic contact with your child.

Examples of abandonment may also include leaving your child with a relative or friend, and not providing any assistance to that person to see that your child's needs are being met.

Examples of abandonment may also include leaving your child with a relative or friend and not having any contact with your child for six months. The Tribal Court may conclude that this is evidence that you have abandoned your child.

Chapter 21

Emergency Custody



In emergency circumstances, the police officer or the ICW Case Worker may take action.

21.1 Enforcement Officer.

If an enforcement officer reasonably believes that the youth is in immediate and serious danger from his or her surroundings and removal is necessary for the youth's safety or well being, the officer may take the youth into custody. SITC § 10.08.010 (2).

The officer may do so with or without a court order. A court order is preferred but is not necessary. SITC § 10.08.010 (3).

If the officer takes the youth into custody without a court order, the officer must

- Release the youth to the youth's parent, guardian or custodian and issue a verbal warning or otherwise counsel the youth and parent, guardian or custodian or
- Immediately contact the ICW Case Worker and request direction as to whether the youth should be placed in shelter care. If, for any reason, the ICW Case Worker is not available, the officer may place the youth in shelter care. SITC § 10.08.010 (3)(a)(b).

ICW maintains a list of approved emergency shelter care providers. SITC § 10.08.010 (3)(c). See Appendix ____.

If the youth is not released, the officer and the ICW Case Worker will continue their effort to notify the youth's parent, guardian or custodian.

21.2 Case Worker.

If the Indian Child Welfare worker reasonably believes that a youth is in an emergency situation and requires shelter care, ICW shall:

- Request an emergency custody order, if there is time and a judge is available, or
- immediately place the youth in shelter care. SITC § 10.08.010 (E)(2)(a)(b).

ICW can remove a youth and place a youth in shelter care with or without a Court Order.

If the ICW Case Worker does not obtain an emergency custody order [requires more explanation – Code is unclear]

The ICW Case Worker must notify the parent, guardian or custodian at the earliest possible time. SITC § 10.08.010 (E)(2)(c).

The ICW Case Worker must return the youth to the parent, guardian or custodian if such action is appropriate. SITC § 10.08.010 (E)(2)(c).

If, in the opinion of the ICW Case Worker, returning the youth to the parent, guardian or custodian is not appropriate, and it is unlikely that the youth will be released within two working days, the ICW Case Worker must file a request for a preliminary hearing. SITC § 10.08.010 (E)(2)(d).

Thus, if the youth is removed and placed in shelter care under an emergency custody order, that order will set the date for a preliminary hearing. However, if the youth is removed and placed in shelter care without an emergency custody order, a request for a preliminary inquiry must be filed within 48 hours. The preliminary hearing does not have to occur within 48 hours – but the request must be filed within that time.

21.3 Ex Parte Emergency Custody Orders.

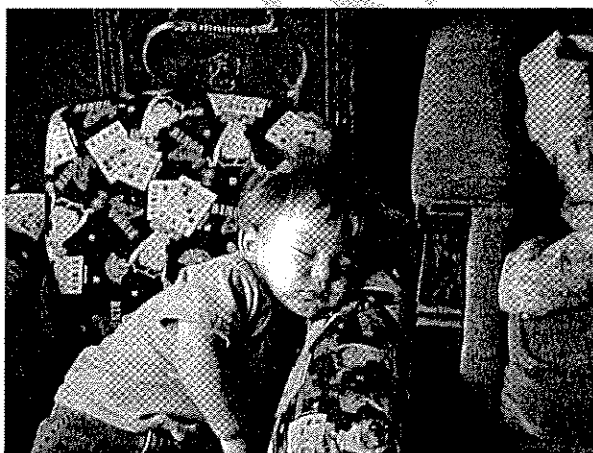
Ex-parte simply means without a hearing. An emergency custody order - the order that allows emergency removal of your child - can be signed by a Judge without a hearing. The Judge bases the decision on what ICW reports to the Judge.

A Judge may issue an emergency custody order upon a sworn oral or written statement of facts showing probable cause to believe the youth is in need of care, and that his or her health will be seriously endangered if not taken into custody. SITC § 10.08.010 (F).

An emergency custody order comes in a particular form. See Appendix B. SITC § 10.08.010 (G).

Once the emergency custody order is issued it must be executed within 48 hours. That means the youth must be taken into custody within that time. SITC § 10.08.010 (H).

The emergency custody order will set out how long the youth will be held. Generally, a youth will be held until the conclusion of the preliminary hearing or for the time period or until certain conditions are met as set out in the order. SITC § 10.08.010 (H).



Chapter 22

The Preliminary Hearing regarding Youths in Shelter Care



The Tribe, through its police and/or the ICW Program may remove a youth and place him or her in shelter care if there is reason to believe that it is necessary to protect the child because the child is in immediate danger. This can be done with, or without, a Court Order.

However, the tribal laws set up a check on the police officer's and ICW staff's actions and an opportunity for all those who have an interest in the youth to be heard.

22.1 The first opportunity for all to be heard is the Preliminary Inquiry.

The first hearing is called a preliminary inquiry hearing. That means that the Court will make a temporary decision, until you have a full hearing (which is called an adjudicatory hearing - see Chapter __) within 30 days of the preliminary inquiry hearing. At the preliminary inquiry hearing, the Judge decides where your child should stay until the full adjudicatory hearing can be held.

A Preliminary Inquiry comes about in three ways:

First, the Court may set the date. If an emergency custody order is granted before the youth is removed and placed in shelter care, that order will generally set a date for the preliminary inquiry.

Second, if the youth is removed and placed in shelter care by the ICW Case Worker and the Case Worker did not obtain an emergency custody order and the youth is not likely to be

returned to his or her parent, guardian or custodian within 48 hours, the Case Worker has to immediately request a Preliminary Inquiry. That request has to be filed immediately after removal. SITC § 10.08.010 (E)(2)(d). The time and place for the Preliminary Inquiry will then be set by the Court. The hearing must take place within two working days of filing a request for a preliminary inquiry. SITC § 10.08.010 (C).

Third, the parent, guardian or custodian may request a Preliminary Inquiry. [do not find the 10 day reference included in YH's draft – confirm]. The hearing must take place within two working days of filing a request for a preliminary inquiry. SITC § 10.08.010 (C).

22.2 How to make a request for a Preliminary Inquiry

A request for a Preliminary Inquiry must include the elements set out in SITC § 10.08.010 (B). See the form in Appendix B.

22.3 Coming to Tribal Court for the Preliminary Inquiry

When you come to Tribal Court, you will sit at one of the long tables in the front of the Courtroom. You may have a friend or family member sit with you, if you feel more comfortable. A lawyer or spokesperson from the Tribal Attorney's Office, which represents the ICW Program, will sit at the other table with the ICW investigator and caseworker, if one is assigned.

You have the right to represent yourself. Or you may hire a lawyer to represent you. If you can't afford to hire a lawyer, you may ask the Tribal Court to appoint a lawyer or a spokesperson at the Tribal Court's expense. This person will speak with you, or for you (See Chapter 13 - Representation by a Lawyer or a Spokesperson). The lawyer or spokesperson will sit with you at the table. You may ask a friend or relative to sit with you and/or speak for you if you feel more comfortable.

The Judge will have the Petition in front of her/him. The ICW Program and the Tribal Attorney's Office, will present evidence to the Judge to prove that your child should be kept in the custody of the ICW Program until a full adjudicatory hearing can be held. To do this, the ICW Program can call witnesses and can give the Judge photos or documents that help prove what the Petition is claiming. The investigator will probably testify.

Your attorney or spokesperson will present your side of the story. You have the right to act as your own attorney. That means that you can ask the witnesses questions. You can also testify yourself, telling the Judge what you know and think. You can bring to Tribal Court your own witnesses, and photos or documents that you think prove that your child should not stay in custody.

At this hearing, the Tribal Court can listen to *all* of the evidence, even hearsay.

22.4 The Court's Findings

After listening to all of the evidence that the ICW Program and you present, the Judge must

decide what is in the best interests of your child. The result will be either: (a) there is not probable cause to believe that the youth is in need of care and the youth is released to the custody of his or her parent, guardian or custodian or (b) there is probable cause to believe that the youth is in need of care and the appropriate steps for caring for the youth are determined.

The Judge will likely consider the following:

- Whether there is "probable cause" to believe that the acts of abuse or neglect that are charged in the Petition have happened. "Probable cause" means - did the things probably happen? When you have the full adjudicatory hearing later, the Judge has a much higher "standard of proof", and must decide whether there is "clear and convincing evidence"; but at this first hearing, the Judge just has to decide if it's more likely than not that the child has been abused or neglected.
- Whether the abuse or neglect that probably happened is serious enough that the Tribe should become involved by taking custody of the child and offering help to the parents and child;
- Where the child should be placed until the full adjudicatory hearing. Can the child go home to the parents while ICW Program continues its investigation and works with the family? Or is it necessary for the child to be kept out of the home until more information can be gathered for the full adjudicatory hearing?

22.4.1 No Probable Cause If at the conclusion of the preliminary inquiry the Youth Court finds that there does not exist probable cause to believe the youth is in need of care, the youth shall be released to the custody of his or her parent, guardian, or custodian. SITC § 10.08.010 (G).

22.4.2 Probable Cause. If the Youth Court finds that there exists probable cause to believe that the youth is in need of care, it has several options. It may order:

That the youth be released to his parent, guardian, or other custodian pending further proceedings; or

That shelter care be continued if the Court finds that there is probable cause to believe that:

- No parent, guardian, custodian, or other person is able or willing to provide adequate supervision and care for the youth, or
- The youth will run away or otherwise be unavailable for further proceedings,
- The youth will be in an emergency situation if he or she is returned to his or her parent, guardian or other custodian,
- The youth will cause serious damage to persons or property, or

- The youth requires medical care, treatment, or evaluation that he or she could not otherwise receive if he or she were to remain in the custody of his or her parent, guardian, or other custodian, or
- The youth has been abandoned.

SITC § 10.08.020 (H).

22.4.3 Community Board Mediation. As an alternative, the Court may order that the youth and his or her parent, guardian or other custodian, or any other interested person within the Court's jurisdiction, attend community board mediation. SITC § 10.08.020 (H)(3). See Chapter ____.

The Judge will decide whether to place your child in the *legal* custody of the ICW Program, and who should have the *physical* custody of the child until the next hearing.

Until the full adjudicatory hearing, you have a right not to cooperate with the ICW Program. If you do that, you may risk losing your case when you come to a full adjudicatory hearing. If you want to cooperate, the Judge may order that you do certain things, and if you agree to do them the Judge may allow your child to stay with you until the hearing, or returned to you at that time.

22.5 Placement Preferences. The Tribe follows certain preferences when making placement decisions. Preference is given as follows:

- A private home recommended by the social services staff (this will usually be a responsible member of the youth's extended family); or
- A foster home approved by the Tribe; or
- A shelter care facility approved by the Tribe.

SITC § 10.08.020 (I).

22.6 Frequently Asked Questions.

What if I have left my child with a relative or a friend – can the ICW Program remove her/him or him?

Yes. Wherever your child is, if the ICW investigator thinks that s/he is in danger, ICW Program can take your child into custody. If ICW Program thinks that your child's health or safety is in jeopardy in your care, then the ICW Program can place the child in out-of-home care.

Why can't I just take my child and leave if I think the ICW Program is going to take her/him away?

If the ICW Program thinks your child might be being abused or neglected, and also suspects that you may leave with your child to get away from ICW Program, then the ICW Program can take your child and place her/him in out-of-home care.

Can the ICW Program remove my child without an Order?

Yes. If possible, the ICW investigator will get an Order. But sometimes s/he doesn't have time to get an Order. Then the law allows her/him to remove the child without one.

DRAFT

Chapter 23

The Fact Finding Hearing



The next hearing is called a fact-finding or an adjudicatory hearing. The Judge will set the date for the fact finding hearing at the preliminary inquiry. SITC § 10.08.020 (J).

Adjudicate means to decide a case in a court of law. This is the hearing at which the Judge will hear all of the evidence and will finally decide a the path to be taken, including whether to give legal custody of your child to the Tribe. . This hearing must be within 30 days of the first hearing unless the Tribal Court decides that there is a good reason to set it later on.

This hearing is similar to the first preliminary inquiry hearing, with some very important exceptions. At the fact finding hearing, the rules of evidence apply. Parents who are not represented by attorneys may get confused during this hearing, because they are not familiar with these rules. The Judge will help parents representing themselves, as much as possible, but the Judge cannot tell parents how to raise objections to evidence or how to properly ask questions. The most important objection a parent has the right to make is the objection to hearsay. This means that a witness should testify only to what s/he has seen or heard, not to what somebody else told them. Be sure and make this objection if you want to, and let the Judge decide if the testimony is admissible or not.

The Judge listens to all of the evidence presented by the ICW Program and by you. This could include witnesses like the ICW investigator and caseworker, you, friends, neighbors, family members, experts like doctors or schoolteachers, and other people who can testify to what they know. It could include other kinds of evidence as well - like photographs, school records, and other documents. You should bring to Tribal Court any witnesses and other evidence you think might help you.

If you have been cooperating with ICW, the caseworker may have given you worksheets on which to keep track of your progress in services. If you have these worksheets bring them as proof to the Judge of what you've done to improve your situation.

The Tribe presents its case first. The Presenting Officer will likely call as witnesses the investigating officer from the police and the ICW Case Worker that participated with the police

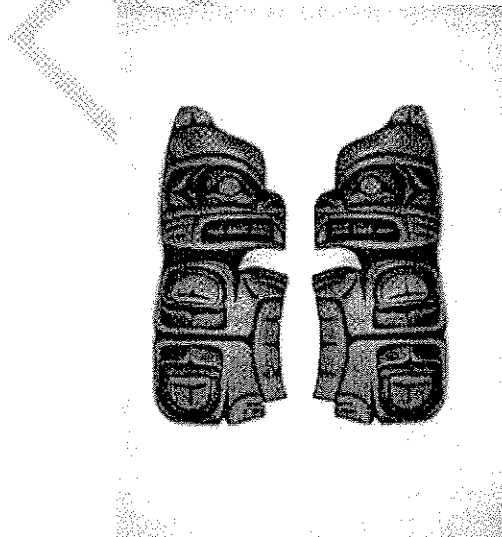
in the investigation and evaluation of the Youth In Need of Care concerns. Their purpose will be to prove that the Youth is a Youth In Need of Care. As their witnesses testify, you have a right to cross-examine them, which means you can ask them questions about what they have testified. After the Presenting Officer is done, you may present your case. Ask your witnesses to tell what they know, and show the Tribal Court any photos or documents you have. The Presenting Officer can then ask your witnesses questions about what they have testified. If the Presenting Officer did not call you as a witness, you can call yourself. Swear under oath to tell the truth, and then tell the Judge what you know and think. The Presenting Officer can ask you questions about what you say.

The Judge may ask questions, and try to explain things to you.

At the end of the hearing, the Judge must weigh all of the evidence and apply what is called a "standard of proof." In a criminal trial, for example, a Judge or jury must find that a person has committed a crime "beyond a reasonable doubt," to convict the person. In a civil case (like a landlord suing a tenant for back rent), the Judge must decide who is liable by a "preponderance of the evidence," which means by about 51%. In between those two "standards of proof" is the standard used in your case: the Judge must decide by "clear and convincing" evidence that your child has been abandoned, abused, or neglected, and that the Tribe, therefore has jurisdiction, and should take custody of your child. SITC § [citation]

If the Judge decides that the Tribe has not proven its case by "clear and convincing" evidence, the Judge will dismiss the case at the end of the hearing and will order that your child be returned to you.

If the Judge decides that the case has been proven, the Judge will make your child a ward of the Tribal Court. [this requires more re the options available to the judge]



Chapter 24

Disposition



Disposition is what happens once the Judge has made your child a ward of the Tribal Court. This is where the Judge decides what should happen to your child and what you need to do.

The Judge will probably give temporary legal custody of your child to the ICW Program for care, control, and supervision. This means that the ICW Program will be able to make all the decisions about your child.

Then the Judge must decide where the child should live and who should have physical custody. The ICW Program will make recommendations. However, if you have recommendations of your own you may make them, and the Judge will listen, and take them into account also. The child could be placed back home with you, under supervision by the ICW caseworker, so long as you are cooperating with the services that are recommended and the child will be safe and healthy there. Or the child could be placed in what is called foster care. That could be with a relative, a friend, or someone who is a stranger to you but who has been certified by the Tribe to be a foster parent.

Taking a child away from parents and placing the child in foster care is a very serious step. The Tribal Court will ask the ICW caseworker whether or not reasonable efforts have been made to prevent the removal. If the removal happened in an emergency, then the Tribal Court wants to know what reasonable efforts the ICW Program made, and is making, to make it safe for the child to return home soon. Did the investigator meet with you and try to explain to you what the problem is? Did s/he offer you some possible ways to prevent removal (for example -

clean up your house, stop drinking and get an alcohol evaluation, find better babysitters, stop hitting your child and enroll in a parenting class)? Has the ICW caseworker referred you to some services that are available to you? Has s/he given you visitation with your child?

If there are some services you think would be useful to you and help you to take better care of your child, what are they? Tell the Tribal Court what you are willing to do to solve the problems.

When the Judge makes your child a ward of the Tribal Court, s/he decides what you must do to get full legal custody of your child back again. Here again, the ICW Program will make recommendations to the Tribal Court. If you have recommendations you may make them, and the Judge will listen and take them into account also.

The Judge will also decide what visitation you will have with your child, if your child is not placed with you. The Judge could require that the visits be supervised by the caseworker, or a family member, or someone else suggested by you or the ICW caseworker.

Before your hearing is over, the Judge will probably set the next hearing date. This will be a hearing to review your case. The Judge will want to see how you are coming along with the things you have been required to do, how the child is doing, and how the ICW Program is doing at providing services and supervision.

You will wonder how long all of this will take before you can get your child back. The Judge will want to see you cooperate and make immediate progress. The Judge will tell The ICW Program is required to do what is called concurrent planning. This means the ICW Program must begin looking for someone else who will be able to raise your child in case you are unable to solve the problems quickly. Within one year, a permanent plan for your child must be made for your child. So you must start *now*, doing everything you can to make sure you don't lose custody of your child forever.

Everything that the Judge decides will be written down in an order, which you will receive a copy of, usually within a week of the hearing.

**Chapter 25_
Guardianships**

**Chapter 26
Termination of Parental Rights**

**Chapter 27
Adoption**

**Chapter 28
Truancy**

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Chapter 29

Representation by Lawyers Or Spokespersons

You may represent yourself in Tribal Court.

You have the right to be represented by a lawyer in Tribal Court. If you want to hire a lawyer you may do so. If you decide to hire a lawyer, you should ask the lawyer how much work s/he has done in juvenile court, particularly in these kinds of child custody hearings (they are called "dependency" hearings.) Just like it's a good idea to see a heart specialist about heart problems, it's also a good idea to hire a lawyer who has experience in these kinds of cases. The law and the procedures are very specialized.

If you haven't had time to hire a lawyer before you come to the first preliminary inquiry hearing, you may ask the Judge to postpone the hearing to give you a chance to do so.

If you don't think you want a lawyer at the beginning of your case, but you decide later to hire one, you can do so at any time that you are still involved with the ICW Program and the Tribal Court.

If you cannot afford to hire a lawyer, it may be that a volunteer lawyer will be willing to represent you. If you cannot afford to hire a lawyer, there are some legal aid resources that may possibly help you find a sliding scale fee lawyer.

Northwest Justice Project has a CLEAR line where you can telephone a toll-free 888# to ask for a referral to a Family Law attorney specialized in Tribal Court Dependencies. The screener on the CLEAR line will ask you what county in Washington State you are calling from, and what your legal issue is that is causing you to call for assistance. The referral may be a sliding scale attorney in your own area, or an attorney from Northwest Justice Project depending on your legal issue. The CLEAR Line phone number is 1-888-201-1014.

The CLEAR Line is open weekdays from 9:30 AM to 12:30PM. On Tuesdays, it is also open from 3:30 PM to 6:15 PM. They also have a website: just search on the Internet for Northwest Justice Project.

You may also choose to be represented by a spokesperson. A spokesperson is a non-lawyer you can select who has been approved by the court. The Tribal Court has a list of people willing to serve as spokespersons. Or you may choose your own spokesperson, and the Tribal Court will examine that person to see if s/he is capable of speaking for you and can be approved.

The main difference between a lawyer and a spokesperson is that the lawyer knows the law and the procedures. The spokespersons on the Tribal Court list know something about the law and the procedures, but they are not lawyers. Either of them can represent you, which means that they can tell the Judge what your side of the story is, and can try to persuade the Judge to do what you want the Judge to do. A spokesperson you choose yourself will

primarily talk for you, and is not expected to know the law or procedures as well as the lawyers and trained spokespersons.

If you represent yourself, or a spokesperson represents you, the Judge is required to make sure that you have an equal opportunity to present your case and cross-examine witnesses. You will not be held to the same strict standards or procedural conduct as the lawyers will be. However, the Judge cannot be your advocate, and must make sure the hearing is fair to everyone.

Your lawyer or spokesperson will help you gather evidence to present to the Judge. If you represent yourself, you must listen very carefully to what the Judge tells you to do to present your evidence by yourself.

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Chapter 30

Keeping a Record of Your Progress



The Service Plan

The service plan, or case plan, is a written document designed to help you identify what you must do in order to reunify with your child or to regain legal custody of your child. This plan may be signed before your hearing. You, your family, and others will work with the caseworker to develop the plan. The caseworker and you will meet to discuss and sign your service plan. If you don't agree, the caseworker can seek an order requiring certain services. The plan must be followed in order for reunification to occur.

Here is a list of things you may choose or be required to do to help your family:

- Get a drug and alcohol assessment;
- Clean your house;
- Keep your home safe at all times;
- Get a mental health assessment;
- Get a domestic violence assessment;
- Get and/or maintain stable employment;
- Get and/or maintain stable housing suitable for your child;
- Remove people from your home who are a danger to your child;
- You may have to remove people from your home who may pose a risk or threat to your child's well-being or your child's safety.

Additionally, you may choose, or be required, to comply with services which are specific to your situation, such as anger management classes, parenting classes, employment, etc. The Program will recommend the services necessary for you and your family to reunify. You may not feel that you need these services. If necessary the Court will decide. You may be required to follow those recommendations.

You and the ICW Program agree to and sign your plan. Generally speaking, the plan is effective for up to 90 days of the signature date. You should complete your services as soon as possible. The caseworker will monitor progress and provide support as appropriate, on an ongoing basis. You are responsible for your own follow-up and progress, and for keeping notes on all your work so you can show your progress. The Tribal Court will review your progress at review hearings which can be set as often as necessary. The Court will decide a permanent plan for your child no later than one year from when your child was removed.

If you do not comply with the service plan, you may risk the following:

- The ICW Program or the Tribal Court could restrict your visitation with your child.
- The ICW Program or the Tribal Court may decide it is not a good plan to reunite your with your child.
- You may not qualify for General Assistance, or other Tribal programs.

THE PARENT WORKBOOK/TRACKING YOUR PROGRESS

The Parent Workbook is a booklet designed to track all of your compliance, accomplishments, and progress with your service plan. The booklet is “evidence” and you will record:

- Dates of appointments;
- Outcomes of appointments;
- Phone numbers;
- Contact persons;
- Completion dates of evaluations/classes;
- Visitations schedule/attendance;
- Questions;
- Other information you think is important to your case.

Your ICW Program caseworker will supply the pages that you will need for your individual workbook. You may add more pages if you wish. Even if a booklet is not available, you should keep a record of all accomplishments. The information is critical for communicating with the caseworker and for proving your progress in Tribal Court.

Always bring your workbook with you when you visit your caseworker or come to a court hearing.

PROGRESS I MADE WITH APPOINTMENTS ATTENDED OR PHONE CALLS MADE

I'm supposed to make and keep the following appointments: *Make an appointment for seeing Travis' teacher. Find out why he's not doing well in school.*

I did this	Date	Time	Agency/Person	What I did/what happened
√	01.07.00	9 am	School teacher – Ms. Daly	I called – meet 01.10.00 at 3:00 pm
√	01.10.00	3 pm		I met with her. She told me some things to do.
√	01.11.00			Read his school records
√	01.13.00		John Baden	Meet with school counselor, Mr. Baden

PROGRESS I MADE/VISITATIONS ATTENDED

As of 12.28.99 my visits are supposed to be held as follows every week at the ICWP office, supervised on Thursdays at 4-5 pm.

Date	Time	Location	Comments/What I did/what happened
12.30.99	4-5 pm	ICWP	The visit went well. I cried and the caseworker told me not to, so I stopped. Travis and I played games.
01.05.00	10 am	Phone calls	I called caseworker 3 times and left message, I'm sick. She called back and we set the visit for Friday
01.07.00	4-5 pm	ICWP	Caseworker says visit went great. I thought so, too. Travis had a bruise. Caseworker will check it out.

PROGRESS I MADE WITH MENTAL HEALTH RECOMMENDATIONS

Here is exactly what I'm supposed to do about my mental health issues: *Get a psychological evaluation and follow through with any recommendation for treatment.*

Date	Time	Location	Comments/What I did/what happened
12.30.00	9 am		Called caseworker for referral
	10 am		She called and said to make an appointment

			with Dr. Smith
	3 pm		I called Dr. Smith. We have an appointment set 01.20.00 at 2 pm

PROGRESS I MADE WITH DRUG AND ALCOHOL RECOMMENDATIONS

Here is exactly what I am supposed to do about my drug and alcohol issues: *Get a drug-alcohol assessment and follow through with treatment.*

Date	Time	Location	Comments/What I did/what happened
12.28.99	10 am	Wellness Center	I set up an appointment for tomorrow at 2 pm
12.28.99	11 am		They called me to re-set appointment – 12.31.99 at 10 am
12.31.99		At home	I stayed sober tonight and did not drink!
12.21.99	10 am	Wellness Center	Gave a clean UA. Got my assessment done
01.01.00	3 pm	St. Anthony's Church	AA meeting (I have an attendance slip)
01.02.00	11 am	John's house on 13 th Street	AA meeting (I have an attendance slip)
01.03.00	2 pm	Wellness Center	Gave a clean UA
	7 pm	St Anthony's	AA meeting (I have a slip)

Chapter 31

The Role of the Foster Parent

To be a foster parent for your child a family must have completed the following:

- Foster care application;
- A criminal history background check;
- Signed a discipline & guidance agreement;
- Signed a confidentiality statement;
- Meet foster home standards for certification;
- Home inspection by the foster care coordinator;

The ICW Program expects foster parents to be responsible for:

- Providing food, shelter, and a safe environment for your child;
- Encouraging the relationship between your child and his/her family;
- Supporting your child's educational, mental health & medical needs;
- Encouraging cultural and social experiences for your child;
- Supporting the ICW Program in efforts to return your child to your care;
- Keep all information regarding your child's background confidential;

The ICW Program has a list of persons who have qualified as foster parents. If you have a person in mind who you would like to be a foster parent for your child, you may ask the ICW Program to accept an application from that person and certify her/him if s/he qualifies.

A foster parent may or may not be willing to have contact with you. This is entirely up to the foster parent and ICW Program.

Chapter 32

The Role of the Guardian

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APPENDICES

APPENDIX A: CONFIDENTIAL RELEASE FORM

Basic Multi-Party Consent Form

Consent for Release and Exchange of Confidential Information

I, _____, authorize the following information to be disclosed and re-disclosed as necessary to evaluate my need for services and to coordinate those services being provided to me.

The purpose or need for the exchange and disclosure of this information is to:

☐ Facilitate Treatment
Continuing Care

☐ Summarize Treatment

☐ Coordinate

☐ Enable the Squaxin Island Tribe and its various programs and service providers to evaluate my need for services from the Tribe, and provide and coordinate those services to me.

☐ Other (please state purpose clearly):

(Mark each item Yes or No)

_____ My name and other personal
Identifying Information

_____ Discharge plan(s) for
alcohol/drug treatment and
mental health services

_____ My status as a patient

_____ Attendance

_____ Initial and subsequent
evaluations of service needs

_____ Date of discharge and
discharge status

_____ Summaries of assessment
results and history

_____ Summaries of service plan(s),
progress and compliance

_____ Other (specify)

I authorize that information to be disclosed between and among the following:

1) alcohol and/or drug treatment program(s): the Northwest Indian Treatment Center Residential Program, P.O. Box 477 Elma, Washington 98541; the Northwest Indian Treatment Center Outpatient Program, 100 SE Whitener Rd., Shelton, Washington 98584; ☐ _____; ☐ _____; [insert Name and Address for each]

2) health care provider(s): Squaxin Island Health and Human Services: [identify specific programs]

☐ _____; ☐ _____;

3) mental health agencies or providers named in the list of "Mental Health Providers" attached to this consent form that have provided me services since [date] _____;

4) welfare agencies: the Squaxin Island Indian Child Welfare Program; [the local/county welfare agency and/or its designee]; the Department of Social and Health Services; [other] ☐ _____;

5) the Squaxin Island Ta Ha Buts Learning Center and Education Program: [identify specific programs] ☐ Truancy Officer; ☐ _____;

☐ _____; ☐ _____;

6) the Squaxin Island Tribe's Youth Court; ☐ Probation Officer; ☐ Parole Officer; ☐ Truancy Officer; ☐ [other referring agency] _____; ☐

_____; ☐ _____;

7) ☐ _____
[Name of the child(ren)'s attorney (law guardians)]; and

8) Other ☐ _____; ☐ _____;

I understand that my alcohol and/or drug treatment records are protected under the federal regulations governing Confidentiality and Drug Abuse Patient Records, 42 C.F.R. Part 2, and the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 45 C.F.R. parts 160 and 164, and cannot be disclosed without my written consent unless otherwise provided for by the regulations. I also understand that I may revoke this consent in writing at any time except to the extent that action has been taken in reliance on it, and that in any event this consent expires automatically one month following the date I stop receiving services from the Core Group or any of its members, whichever is later.

Signature of Patient Date

Signature of Parent, Guardian Date
or Authorized Representative

Signature of Witness Date

Extended Multi-Party Consent Form

Consent for Release and Exchange of Confidential Information

I, _____, authorize the following information to be disclosed and re-disclosed as necessary to evaluate my need for services and to coordinate those services being provided to me.

The purpose or need for the exchange and disclosure of this information is to:

☐ Facilitate Treatment
Continuing Care

☐ Summarize Treatment

☐ Coordinate

☐ Enable the Squaxin Island Tribe and its various programs and service providers to evaluate my need for services from the Tribe, and provide and coordinate those services to me.

☐ Other (please state purpose clearly):

I authorize the following information to be disclosed:

(Mark each item Yes or

No)

_____ Identifying Information

_____ Progress Notes

_____ Admission Registration

_____ Psychiatric Consultation

_____ Diagnosis, Date of Service

_____ Psychological Evaluation

_____ General progress / Condition

_____ Academic Information

_____ History and Physical

_____ Discharge Summary

_____ Laboratory Reports

_____ Medical Discharge Summary

_____ Doctor's Orders

_____ Continuing Care Participation

_____ Consultations

_____ Family Questionnaire

_____ Treatment Plan

_____ Family Program Information

_____ Biopsychosocial Summary

_____ Other (specify) _____

I authorize that information to be disclosed between and among the following:

1) alcohol and/or drug treatment program(s): the Northwest Indian Treatment Center Residential Program, P.O. Box 477 Elma, Washington 98541; the Northwest Indian Treatment Center Outpatient Program, 100 SE Whitener Rd., Shelton, Washington 98584; ☐ _____; ☐ _____; ☐ _____;

[insert Name and Address for each]

2) health care provider(s): Squaxin Island Health and Human Services: [identify specific programs]

☐ _____; ☐ _____; ☐ - _____;

3) mental health agencies or providers named in the list of "Mental Health Providers" attached to this consent form that have provided me services since [date] _____;

4) welfare agencies: the Squaxin Island Indian Child Welfare Program; [the local/county welfare agency and/or its designee]; the Department of Social and Health Services; [other] ☐ _____;

5) the Squaxin Island Ta Ha Buts Learning Center and Education Program: [identify specific programs] ☐ Truancy Officer; ☐ _____; ☐ _____; ☐ _____;

6) the Squaxin Island Tribe's Youth Court; ☐ Probation Officer; ☐ Parole Officer; ☐ Truancy Officer; ☐ [other referring agency] _____; ☐ _____; ☐ _____;

7) ☐ _____
[Name of the child(ren)'s attorney (law guardians)]; and

8) Other ☐ _____; ☐ _____; ☐ _____

The purpose or need for the exchange and disclosure of this information is to:

☐ Facilitate Treatment
Continuing Care

☐ Summarize Treatment

☐ Coordinate

☐ Enable the Squaxin Island Tribe and its various programs and service providers to evaluate my need for services from the Tribe, and provide and coordinate those services to me.

☐ Other (please state purpose clearly):

I understand that my alcohol and/or drug treatment records are protected under the federal regulations governing Confidentiality and Drug Abuse Patient Records, 42 C.F.R. Part 2, and the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 45 C.F.R. parts 160 and 164, and cannot be disclosed without my written consent unless otherwise provided for by the regulations. I also understand that I may revoke this consent in writing at any time except to the extent that action has been taken in reliance on it, and that in any event this consent expires automatically one month following the date I stop receiving services from the Core Group or any of its members, whichever is later.

Signature of Patient

Date

Signature of Parent, Guardian
or Authorized Representative

Date

Date

Signature of Witness

APPENDIX B: TRIBAL COURT FORMS

Motion for Emergency Pick Up
Order for Emergency Pick Up
Motion to Shorten Time
Order to Shorten Time
Motion to Continue Hearing
Order to Show Cause
Emergency Custody Order (Ex-Parte)
Emergency Custody Order
Petition for Order Determining Child is Youth in Need of Care
Motion for a Preliminary Inquiry
Notice of Preliminary Inquiry
Order Determining Child is Youth in Need of Care
Petition for Foster Care Placement
Order for Foster Care Placement
Petition for Guardianship
Order for Guardianship
Petition to Terminate Parental Rights
Order Terminating Parental Rights
Motion to Recognize and Implement Tribal Court Order in State Court
Order Recognizing and Implementing Tribal Court Order in State Court
Motion to Recognize and Implement State Court Order in Tribal Court
Order Recognizing and Implementing State Court Order in State Court

APPENDIX C: CRITICAL PATHWAYS

C-1 Youth in Need of Care

C-2 Adoption

C-3 Termination of Parental Rights

C-4 Guardianship

C-1 Youth in Need of Care

Procedure and review checklist for Youth in Need of Care Actions

Resources: Squaxin Island Code Chapter 10.08

Critical path:

- ☐ Complaint advanced by any person with personal knowledge of youth in need of care.
- ☐ Complaint is filed with Law Enforcement or ICW.
- ☐ Two paths: Law Enforcement or ICW

PATH A: LAW ENFORCEMENT FIRST RECEIVES COMPLAINT

- ☐ Law Enforcement notifies ICW
- ☐ Law Enforcement investigates immediately.
- ☐ If Emergency Custody is warranted, obtain Order.
- ☐ Remove and place youth, with or without order.
- ☐ Notify parent, guardian or custodian.
- ☐ Without order, release to parent with counseling or place in shelter care.
- ☐ Law Enforcement prepares a detailed report.
- ☐ Law Enforcement provides report to ICW within 3 days of Complaint.

PATH B: ICW FIRST RECEIVES COMPLAINT

- ☐ Confer with Law Enforcement to determine if further action on Complaint is necessary.
 - ☐ As necessary, Law Enforcement investigates immediately.
 - ☐ Inform youth's parent, guardian or custodian as soon as possible.
 - ☐ Return youth to parent, guardian or custodian if warranted.
 - ☐ If Emergency Custody is warranted, obtain Order.
 - ☐ Remove and place youth, with or without order, with assistance of Law Enforcement.
 - ☐ If youth is in custody and not likely to be returned within two working days, ICW immediately files a request for a preliminary hearing.
-
- ☐ Request for preliminary hearing filed. File request within two working days of taking youth into custody.

- ☐ Hearing to be held within two working days of filing the request for a hearing.
- ☐ Notice of hearing provided to parent, guardian, or custodian.
- ☐ Court does or does not find that there is probable cause to believe that a Youth is in Need of Care.
- ☐ File petition for a Fact Finding Hearing.
- ☐ Fact Finding Hearing set within 35 days of the filing of petition.
- ☐ Court Clerk provides notice of Fact Finding Hearing at least 5 days prior to the hearing.
- ☐ Court enters findings.
- ☐ ICW prepares a pre-disposition report.
- ☐ ICW seeks recommendations of social service staff.
- ☐ ICW serves pre-dispositional report at least 5 days prior to the hearing.
- ☐ Any one else may serve their own pre-dispositional report.
- ☐ Dispositional hearing to take no more than 35 days from fact finding hearing.
- ☐ Disposition order entered.
- ☐ Appeal.
- ☐ Continuing jurisdiction: review and/or modification of disposition order at least every six months or as requested by any party.

MEDIATION BOARD ALTERNATIVE (for use prior to [possibly only prior to fact finding] dispositional hearing)

- ☐ Request for mediation hearing by Presenting Officer or ICW Case Worker
- ☐ Order for mediation hearing by Court.
- ☐ Community Boards Coordinator schedules hearing.
- ☐ Notice of hearing.
- ☐ Hearing conducted.
- ☐ Agreement may or may not be entered.
- ☐ Compliance monitored by ICW Case Worker.
- ☐ Non-compliance: ICW Case Worker seeks further mediation hearing or proceeds to fact-finding.

C-2 Adoption
Procedure and review checklist for Adoption

Resources: Squaxin Island Code Chapter 10.20

Critical path:

- ☐ Petition is filed.
- ☐ Hearing is scheduled within 60 days.
- ☐ Court Clerk provides notice of hearing at least 20 days prior to the hearing.
- ☐ Pre-Adoption Report is waived under the Extended Family Exception
- ☐ Pre-Adoption Report is required.
- ☐ ICW seeks recommendations of social service staff.
- ☐ ICW conducts a complete home study.
- ☐ ICW seeks recommendations, if any, from Tribal Council.
- ☐ ICW serves pre-adoption report at least 10 days prior to the hearing.
- ☐ Any one else may serve their own pre-adoption report at least 10 days prior to the hearing.
- ☐ Conduct hearing.
- ☐ Satisfy grounds for entering a decree of adoption.
- ☐ Enter temporary decree of adoption.
- ☐ Notify Bureau of Vital Statistics and Bureau of Indian Affairs.
- ☐ Review in one-year
- ☐ Decree becomes final and permanent.

1. Beginning – confirm that the youth is eligible to be adopted.

A youth may be adopted only if he or she:

- ☐ Has no parents by reason of death;
- ☐ Has no parents because the parent-child relationship was voluntarily terminated; or
- ☐ Has no parents because the parent-child relationship was involuntarily terminated.

The Code is not clear whether a child is eligible for adoption when one parent has died or had the parent-child relationship terminated and the other parent is alive and in a parent-child relationship.

The Court has entered decrees of adoption in such cases in the Youth Court. [insert any additional information]

2. Beginning – prepare and file a petition to adopt.

To start an action to adopt a youth, a petition must be prepared. A petition should be prepared by the person promoting the adoption. If the petitioner is a member of the youth's extended family, the court may waive the requirement for a pre-adoptive report. The petition must include:

- ☐ The name, birth date, residence, and tribal status of the youth who is the subject of the petition;
- ☐ The name, birth date, residence, and tribal status, if known, of the youth's parent(s), guardian or custodian;
- ☐ The full name to be given to the child to be adopted;
- ☐ The name, age, place and duration of residence and the tribal status of the petitioner(s);
- ☐ The relation, if any, of the petitioner(s) to the youth;
- ☐ A description of any previous civil proceedings (tribal or state) involving the care or custody of the youth to be adopted and the results of those proceedings; and
- ☐ The reasons the petitioner(s) desire to adopt the youth.
- ☐ The petition should be signed and verified by the applicant. For example, "I have read the foregoing petition and to the best of my knowledge it is true and accurate."

3. Once the petition is filed – notice is given.

File the petition with the Court.

When the petition is received, the Court Clerk shall immediately notify the ICW.

When the petition is received, the Court Clerk shall set a date no more than 60 days from the date the petition was received, unless the Court extends the date.

When the Court date is set the Court Clerk shall give notice of the hearing date to the following people, at least 20 days before the hearing:

- ☐ The petitioner(s)
- ☐ The youth;
- ☐ The youth's parent(s), guardian or custodian;
- ☐ Any person the Court deems necessary for proper adjudication;
- ☐ Any person the parties believe necessary for the hearing;
- ☐ The Indian Child Welfare Office; and
- ☐ The Squaxin Island Tribe's presenting ICW officer or, if none is assigned then the Squaxin Island Legal Department.

The notice must include the date, time, and place of the hearing, and a copy of the petition.

3. The Pre-Adoption Report Not Required – Extended Family Exception.

When the petitioner is a member of the youth's extended family, the court, in its discretion,

may waive the formal written requirements for the pre-adoptive report and require only such oral information from the Indian Child Welfare worker and social services staff as the court deems necessary. SITC § 10.20.010 (F)(7).

Extended family is defined in 10.04.040 as,

This term shall be defined by the law or custom of the Indian youth's tribe, or in the absence of such law or custom, shall be a person who has reached the age of eighteen (18) and who is the youth's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

If the petitioner is the youth's grandparent, aunt, uncle, brother or sister, brother-in-law or sister-in-law, niece, nephew, first or second cousin or step-parent then the need for a Pre-Adoption report may be waived.

4. The Pre-Adoption Report.

ICW must prepare a Pre-Adoption. The time period is short. The hearing will be less than 60 days away, and needs to be filed at least 10 days prior to the hearing. Thus, ICW will have 50 days or less to complete its work.

When the petition or notice of a petition is received by the ICW, ICW shall immediately begin preparation of a pre-adoption report.

ICW shall consult with social services staff.

ICW shall consult with the youth's parents, guardian and or custodian.

ICW shall consult with all social services, health, and education personnel who have had prior professional contacts with the youth and or his or her parent(s), guardian or custodian to determine if adoption is in the best interests of the youth.

ICW may review any of the youth's prior court record.

ICW shall present its preliminary findings and recommendations to Tribal Council and obtain from the Tribal Council its determination whether it opposes the petition.

Thereafter, ICW shall prepare and finalize a written Pre-Adoption Report including the professional opinions of all personnel consulted, whether Council opposes the petition and the recommendation of ICW.

10 days prior to the hearing, the Pre-Adoption Report shall be submitted by the ICW to:

- ☐ The petitioner(s);
- ☐ The youth;
- ☐ The youth's parent(s), guardian or custodian;
- ☐ Any person the Court deems necessary for proper adjudication;
- ☐ Any person the parties believe necessary for the hearing;

- ☐ The Squaxin Island Court Clerk;
- ☐ The Indian Child Welfare Office; and
- ☐ The Squaxin Island Tribe's presenting ICW officer or, if none is assigned then the Squaxin Island Legal Department.

The Court Clerk may receive additional reports from any party which include his or her recommendation.

5. The Pre-Adoption Hearing.

The Pre-Adoption hearing is conducted consistent with the Youth Code. The Court shall consider all pre-adoption reports submitted for review. All parties shall be given the opportunity to contest the factual contents and conclusions of the pre-adoption reports.

The grounds for adoption and the burden of proof are set by statute. The Pre-Adoption Report should consider and speak to the following standards:

The Court may enter a Decree of Adoption if it finds that:

- ☐ All of the necessary procedures have been followed;
- ☐ The Squaxin Island Tribal Council does not oppose the adoption; and
- ☐ Adoption is in the best interest of the youth.

6. Temporary Decree of Adoption.

If the Court grants the petition for adoption, the decree will be temporary for one year. The Court will conduct a review hearing and [not clear here what standard applies] and thereafter enter a permanent decree.

7. Permanent Decree of Adoption.

After one year in temporary adoption status, the Court will enter a Permanent Decree of Adoption [this could be automatic]. A decree must include certain matters, including a provision that the Bureau of Vital Statistics and the Bureau of Indian Affairs be contacted.

Procedure and review checklist for Termination of Parental Rights

Resources: Squaxin Island Code Chapter 10.16

Critical path:

- ☐ Petition is filed.
- ☐ Hearing is scheduled within 60 days.
- ☐ Court Clerk provides notice of hearing at least 20 days prior to the hearing.
- ☐ ICW prepares preliminary pre-termination report.
- ☐ ICW seeks recommendations of social service professionals.
- ☐ ICW seeks recommendations, if any, from Tribal Council.
- ☐ ICW serves pre-termination report at least 10 days prior to the hearing.
- ☐ Any one else may serve their own pre-termination report at least 10 days prior to the hearing.
- ☐ Determine if consent will or will not be given.
- ☐ Conduct hearing.
- ☐ Prior to entry of any final order terminating rights, file, if necessary, any enrollment application.
- ☐ Enter order terminating parental rights.
- ☐ If termination occurs, determine, up to date of adoption, that consent was not revoked.

1. Beginning – prepare and file a petition to terminate parental rights.

To start an action for the termination of parental rights, a petition must be prepared. A petition should be prepared by the person promoting the termination of rights. The petition must include:

- ☐ The name, birth date, residence, and tribal status of the youth who is the subject of the petition;
- ☐ The name, birth date, residence, and tribal status, if known, of the youth's parent(s), guardian or custodian;
- ☐ If the youth is residing with someone other than a parent, the location and length at that location; and
- ☐ A concise statement of the facts and reasons supporting request that parental rights be terminated. An example might be: "The birth mother of Youth X was recently incarcerated in the Washington State Penitentiary and is not scheduled for release for 5 years. Youth X is now 12 years old and has not had any contact with her mother for 9 years, the child moving from foster care to foster care home since birth. The birth mother voluntarily chose to stop seeing for the child soon after birth. The birth mother has provided no emotional, cultural or financial support to the child."
- ☐ The petition should be signed and verified by the applicant. For example, "I have read

the foregoing petition and to the best of my knowledge it is true and accurate.”

2. Once the petition is filed – notice is given.

File the petition with the Court.

When the petition is received, the Court Clerk shall immediately notify the ICW.

When the petition is received, the Court Clerk shall set a date no more than 60 days from the date the petition was received, unless the Court extends the date.

When the Court date is set the Court Clerk shall give notice of the hearing date to the following people, at least 20 days before the hearing:

- ☐ The youth;
- ☐ The youth's parent(s), guardian or custodian;
- ☐ Any person the Court deems necessary for proper adjudication;
- ☐ Any person the parties believe necessary for the hearing;
- ☐ The Indian Child Welfare Office; and
- ☐ The Squaxin Island Tribe's presenting ICW officer or, if none is assigned then the Squaxin Island Legal Department.

The notice must include the date, time, and place of the hearing, and a copy of the petition.

3. The Pre-termination Report.

ICW must prepare a Pre-Termination report. The time period is short. The hearing will be less than 60 days away, and needs to be filed at least 10 days prior. Thus, ICW will have 40 days or less to complete its work.

When the petition or notice of a petition is received by the ICW, ICW shall immediately begin preparation of a pre-termination report.

ICW shall consult with social services staff.

ICW shall consult with the youth's parents, guardian and or custodian.

ICW shall consult with all social services, health, and education personnel who have had prior professional contacts with the youth and or his or her parent(s), guardian or custodian to determine if termination is in the best interests of the youth.

ICW may review any of the youth's prior court record.

ICW shall present its preliminary findings and recommendations to Tribal Council and receive from Tribal Council its recommendations, if any.

Thereafter, ICW shall prepare and finalize a written Pre-Termination Report including the

professional opinions of all personnel consulted, the recommendation of Tribal Council, if any, and the recommendation of ICW.

10 days prior to the hearing, the Pre-termination Report shall be submitted by the ICW to:

- ☐ The youth;
- ☐ The youth's parent(s), guardian or custodian;
- ☐ Any person the Court deems necessary for proper adjudication;
- ☐ Any person the parties believe necessary for the hearing;
- ☐ The Squaxin Island Court Clerk;
- ☐ The Indian Child Welfare Office; and
- ☐ The Squaxin Island Tribe's presenting ICW officer or, if none is assigned then the Squaxin Island Legal Department.

The Court Clerk may receive additional reports from any party which include his or her recommendation.

4. The Pre-Termination Hearing.

The Pre-Termination hearing is conducted consistent with the Youth Code. The Court shall consider all pre-termination reports submitted for review. All parties shall be given the opportunity to contest the factual contents and conclusions of the pre-termination reports.

The grounds for termination and the burden of proof are set by statute. The Pre-Termination Report should consider and speak to the following standards:

The Court may terminate a person's parental rights only when the following conditions have been proved beyond a reasonable doubt:

- ☐ That termination of parental rights is in the best interest of the youth;
- ☐ That guardianship, rather than termination of parental rights, is not in the youth's best interest;
- ☐ That an appropriate adoptive home is available and that adoption proceedings have been filed in conjunction with the termination proceedings; and
- ☐ That the parent has consented to the termination of his or her parental rights under the terms of this chapter; or
- ☐ That the parent is responsible for abuse of the youth as defined in this section.

ICW shall include in the Pre-Termination Report whether the petition is based on the consent or abuse elements. The Pre-Termination Report should speak to the elements noted below for each.

3.1 Consent. A consent of the parent to terminate parental rights is not valid unless:

- ☐ It is in writing;
- ☐ The parent has received counseling from the Squaxin Island social services staff on alternatives to termination such as guardianship, parental support services, and so on;
- ☐ The parent orally explains his or her understanding of the meaning of termination of parental rights and its consequences to the Youth Court judge and the judge certifies that the terms and consequences of the consent were fully explained and were fully understood by the parent; and
- ☐ The consent was given no sooner than thirty (30) days after the birth of the youth.

Any consent may be withdrawn prior to the entry of a final decree of adoption and, if no other grounds exist for terminating parental rights, the child shall be returned to the parent.

3.2 Abuse. Abuse as a condition of termination of parental rights means:

- ☐ Willful and repeated physical injuries which cause or create a substantial risk of death, disfigurement or impairment of bodily functions; or
- ☐ Willful and repeated acts of sexual abuse.

4. Prior to Entry of Final Order. Two matters need to be checked.

4.1 Enrollment. If a youth is eligible for enrollment in the Squaxin Island Tribe, the Indian Child Welfare worker shall submit an application for enrollment of the youth to the Squaxin Island enrollment clerk prior to any final order terminating parental rights.

4.2 Revocation of Consent. If the petition is based on the consent of a parent, the parent can revoke that consent at any time up to the adoption. Check for a revocation prior to entry of a final order.

5. Post Entry. If the Order terminating parental rights was based on the consent of a parent, the parent can revoke that consent at any time up to the adoption. Check, prior to adoption, for a revocation.

C-4 Procedure and review checklist for Guardianship

Resources: Squaxin Island Code Chapter 10.12

Critical path:

- ☐ Petition is filed.
- ☐ Determine if consent will or will not be given by biological parent(s).
- ☐ Determine if child is Youth in Need of Care.
- ☐ Hearing is scheduled within 40 days.
- ☐ Court Clerk provides notice of hearing at least 20 days prior to the hearing.
- ☐ ICW prepares preliminary guardianship report.
- ☐ ICW seeks recommendations of social service professionals (Family Wellness).
- ☐ Family Wellness Team meets and confers for consensus recommendation.
- ☐ ICW seeks recommendations, if any, from Tribal Council.
- ☐ ICW completes guardianship report.
- ☐ ICW serves guardianship report at least 10 days prior to the hearing.
- ☐ Any one else may serve their own recommendation report at least 10 days prior to the hearing.
- ☐ Conduct hearing.
- ☐ Enter order granting or denying petition for guardianship.
- ☐ If guardianship granted, determine if order will limit or define the guardian's powers.
- ☐ Determine when or how order will terminate.
- ☐ Determine if guardianship is subject to continuing or periodic review.

1. Beginning – prepare and file a petition for guardianship.

To start an action for guardianship, a petition must be prepared. A petition should be prepared by the person promoting the guardianship. The petition must include:

- ☐ The name, birth date, residence, and tribal status of the youth who is the subject of the petition;
- ☐ The name, birth date, residence, and tribal status, if known, of the youth's parent(s);
- ☐ The name, birth date, residence, and tribal status, if known of the petitioner(s);
- ☐ If the youth is residing with someone other than a parent, the location and length of time at that location; and
- ☐ A concise statement of the facts and reasons supporting the request that the petitioner be appointed as guardian.
- ☐ The petition should be signed and verified by the applicant. For example, "I have read the foregoing petition and declare that to the best of my knowledge it

is true and accurate.”

2. Once the petition is filed – notice is given.

File the petition with the Court.

When the petition is received, the Court Clerk shall immediately notify the ICW.

When the petition is received, the Court Clerk shall set a date no more than 40 days from the date the petition was received.

When the Court date is set the Court Clerk shall give notice of the hearing date to the following people, at least 20 days before the hearing:

- ☐ The petitioner(s);
- ☐ The youth;
- ☐ The youth's parent(s);
- ☐ The presenting officer;
- ☐ Any person who requests notice;
- ☐ Any person the Court deems necessary for proper adjudication; and
- ☐ Any person the parties believe necessary for the hearing.

The notice must include the date, time, and place of the hearing, and a copy of the petition.

3. The Guardianship Report.

ICW must prepare a Guardianship report. The time period is short. The hearing will be less than 40 days away, and needs to be filed at least 10 days prior. Thus, ICW will have 30 days or less to complete its work.

When the petition or notice of a petition is received by ICW, ICW shall immediately begin preparation of a guardianship report.

ICW shall consult with social services staff. ICW conduct a complete home study.

ICW shall consult with the youth's parents.

ICW may review any of the youth's prior court record.

ICW shall consult with all social services, health, and education personnel who have had prior professional contacts with the youth and with the petitioner(s) to determine whether the appointment of a guardian is in the best interests of the youth. This is the Family Wellness Team.

ICW shall present the Family Wellness Team's findings and recommendations to Tribal Council and receive from Tribal Council its recommendations, if any.

Thereafter, ICW shall prepare and finalize a written Guardianship Report including the professional opinions of all personnel consulted, the Family Wellness Team's recommendation, and Tribal Council's recommendation.

At least 10 days prior to the hearing, the Guardianship Report shall be mailed by the ICW to:

- ☐ The Squaxin Island Court Clerk;
- ☐ The petitioner(s);
- ☐ The youth;
- ☐ The youth's parent(s);
- ☐ Any person who requests notice;
- ☐ Any person the Court deems necessary for proper adjudication; and
- ☐ Any person the parties believe necessary for the hearing;

Any party may file a report which includes his or her recommendations for consideration by the Court.

4. Preference.

The order of preference in placing a youth with a guardian is:

- ☐ An extended family member (a grandparent, an aunt, an uncle, a cousin);
- ☐ A member of or person eligible for enrollment in the Squaxin Island Tribe;
- ☐ A member of another Indian tribe; and
- ☐ If this order of placement preference cannot be met, for good cause shown, then placement may be made with any person who has knowledge of and a desire to foster the youth's tribal affiliation and special needs.

5. The Guardianship Hearing

The Guardianship hearing is conducted consistent with the Youth Code. The Court shall hear testimony to determine whether guardianship is in the best interest of the youth. The Court shall consider all guardianship reports submitted for review. All parties shall be given the opportunity to contest the factual contents and conclusions of the guardianship reports.

The grounds for appointing a guardian and the burden of proof are set by statute. The Guardianship Report should consider and speak to the following standards:

First, the Court may appoint a guardian when the following conditions have been proved by clear and convincing evidence:

- ☐ The parent has consented in writing to the guardianship; or
- ☐ The youth is a youth in need of care as defined under this code.

Second, the Court must also find all the following conditions have been proved by clear and convincing evidence:

- ☐ That appointment of a guardian is in the best interest of the youth;
- ☐ The youth's best interests would not be served if the youth remains under the parent's care and custody; and
- ☐ That the petitioner(s) can provide appropriate and adequate parental care for the youth's financial and emotional support.

6. Order of Appointment – Powers of Guardian.

If the Court orders the appointment of a guardian, the order may define or limit the guardian's power. Consider the following non-exhaustive list:

- ☐ Supervised or unsupervised visits will continue at the direction of ICW.
- ☐ Frequency and duration of visits will be determined by ICW.
- ☐ Review will occur every six months.
- ☐ Guardian will provide periodic reports of cultural activities to ICW.
- ☐ Guardianship will terminate when _____.

If the order does not define or limit the power of the guardian, the guardian has all the rights and responsibilities of a parent except:

- ☐ The power to enroll a youth in a tribe other than the Squaxin Island Tribe if the child is enrolled or eligible for enrollment in the Squaxin Island Tribe;
- ☐ The guardian shall not move outside a fifty (50) mile radius of the Squaxin Island tribal center without Court approval upon notice and hearing;
- ☐ The guardian may not consent to any adoption of the child;
- ☐ The Court may order visitation between the youth and parent(s) or any other person if the Court finds such visitation is in the best interest of the youth.
- ☐ Unless ordered by the Court, the guardianship shall not be subject to periodic or continuing supervision.